IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.199 OF 2003

Communidade of Bandora,
represented by its Attorney,
Shri Saunlo T.N. Gaunekar. ..... Appellant.

V/s.

1. Deputy Collector and S.D.O.
   Sub-division Ponda,
   Ponda, Goa.

2. Block Development Officer,
   Ponda, Goa. ..... Respondents.

Mr. A.F. Diniz, Advocate for the Appellant.

Ms. Winnie Coutinho, Government Advocate for the respondents.

CORAM : B.H. MARLAPALLE &
N.A. BRITTO, JJ.

DATE : 24th November, 2004.

ORAL JUDGMENT : (Per MARLAPALLE, J.)

This appeal arises from an Award passed in Land Acquisition Case No.25/2000 by the learned Addl. District Judge, at Panaji on 25.4.2003, rejecting an application for enhancement of compensation filed under Section 18 of the Land Acquisition Act, 1894 (for short "the Act").

2. Vide a Notification published under Section 4 of the Act on

12.9.1996, land admeasuring 10,500 sq. metres from Survey No.256 of Village Bandora, was acquired for the purpose of allotment of house site under 20 point programme of the Government of India. The Land Acquisition Officer had passed the Award on 31.3.1998 and awarded compensation at the rate of Rs.7.50 per sq. metre. The claimants were not happy with the said compensation and, therefore, moved an application under Section 18 of the Act for enhancement. Sale instance at Exhibit 17 was relied upon in support of the claim that the compensation should be at the rate of Rs.1000/- per sq. metre. The learned Addl. District Judge noted that there was no evidence to show that the sale instance relied upon was a comparable sale instance and, in any case, the land covered by the sale instance at Exhibit-17 was not from Survey No.256. It was for these reasons, the reference was dismissed by the impugned Award.

3. The learned Counsel for the appellant Communidade, by referring to the oral depositions, pointed out that the State Government itself had acquired land from the nearby location in the same Village and though from the private parties, the compensation fixed by the Land Acquisition Officer was in excess of Rs.50/- per sq. metre. By filing Misc. Civil Application No.872/2004, a copy of the Award in Land Acquisition Case No. 2-20-91/LAND dated 20/5/1993 has been placed on record. The Notification under Section 4 was issued on 8.2.1991 and the Land Acquisition Officer fixed the compensation rate at Rs.55/- per sq. metre. It has also been pointed out that there was one more Award passed by the Land Acquisition Officer on 31/5/1996 in case No.2-1-93/LAND and in case No.X/4/Dy.Coll/LA/95 in which the Award was passed on 13.9.1996 and the

compensation rate is fixed beyond Rs.50/- per sq. metre. It was, therefore, submitted by the learned Counsel that when the Government itself was aware that in 1991 itself the market rate was beyond Rs.50/- per sq. metre, the Land Acquisition Officer was not justified in fixing the compensation rate at Rs.7.50 per sq. metre.

4. While opposing the submissions made by the learned Counsel for the claimant, the learned Government Advocate submitted that the Awards sought to be relied upon could not be of any assistance to the claimant at this stage and nothing stopped them from bringing these Awards on record before the trial Court itself. We are not impressed by these submissions. When the Land Acquisition Officer had passed the Awards within the proximate period and in respect of the land located very close to the subject-land, these Awards will be relevant and it would be for the reference Court to consider all other issues like potentiality for sale, tenanted land or the land which cannot be alienated, etc. We need not go into these issues and it would be in the interest of justice that the parties are relegated to the reference Court, so that the copies of these Awards are placed on record by the respective parties and the reference Court may consider the same as per law.

5. We, therefore, allow this appeal, partly and quash and set aside the impugned Award. The Land Acquisition Case No.25/2000 is, hereby, remanded for fresh decision with liberty to the claimant to bring on record copies of the Awards so relied upon. The respective parties are also at liberty to bring such

other evidence on record as they deem it appropriate/relevant. The reference Court is directed to decide the reference, on remand, as expeditiously as possible and in any case, within a period of six months from the date of first appearance. The parties to appear before the reference Court on 13th December, 2004. No costs.

B.H. MARLAPALLE, J.

N.A. BRITTO, J.

ssm.